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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,336	11/20/2003	James Rimsa	0343-0030	9254

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EXAMINER

GREENHUT, CHARLES N

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/718,336

Applicant(s)

RIMSA ET AL.

Examiner

Charles N. Greenhut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2,3,6,15,18,20,21,23 and 31-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,3,6,15,18,20,21,23 and 31-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/26/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### **I. Claim Objections**

1. Claim 31 is objected to because "to the pick-up position" in line 10 should read - - to said extended pickup position - -.
2. Claim 31 is objected to because "the position" in line 18 should read -- the operating position - -.
3. Claim 6 is objected to for being in improper dependant form. Dependent claims must refer to a claim previously set forth. Claim 6 depends from cancelled claim 1. For purposes of examination on the merits, Examiner assumes claim 6 should properly depend from claim 31.

### **II. Claim Rejections - 35 USC § 112**

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. Regarding claim 32, the phrase "and the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "and the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

### **III. Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim(s) 31-35, 2-3, 6, 15, 18, 20-21, and 23 is/are rejected under 35 U.S.C. 102(b) as being anticipated by UPDIKE (US 3,762,586 A).

1.1. With respect to claim 31, and 33, UPDIKE discloses a vehicle (10) adapted to carry a collection container (42), and lifter assembly (54), having a lifter (74) for engaging and inverting refuse receptacles (146), transporter adapted to be mounted at the front of the vehicle (12), including a carrier (68) supporting the lifter (74) movable laterally between an extended position extending substantially beyond a side of the vehicle (10) and to a retracted dumping position in proximity to the collection container (42), the transporter comprising a lifter support (56) movably attached to the carrier (68) for moving between a stored position generally adjacent to the front of the vehicle (12) and an operating position spaced forwardly of the vehicle (10) and laterally of the collection container (42), the lifter support (56) positioned generally adjacent to the carrier (68) in the stored position and generally forwardly from the carrier (68) in the operating position.

1.2. With respect to claim 32, and 34-35, UPDIKE discloses a refuse collection vehicle (10) having a front end (12) rear (16) sides, and cavity (14), lifter assembly carried at the front end (12), having a lifter (74) for engaging lifting and inverting a refuse receptacle (146) into (Col. 5 Li. 10) a collection container (42), and a transporter including a carrier supporting the lifter (74) movable laterally between a pickup position extending substantially beyond a side of the vehicle (10) and to a retracted position in proximity to the collection container (42), the carrier comprising a fixed

member (62) mounted to the front of the vehicle (12), and a laterally movable member (60) to which the lifter (74) is secured, a hydraulic cylinder (64) associated with the fixed (62) and laterally movable member (60), a lifter support (56) pivotally attached to the carrier (at 60), for moving between a stored position adjacent to the front of the vehicle (12) and an operating position spaced forwardly of the vehicle and laterally of the collection container (42), the lifter may be used to engage, lift and dump the contents of a curbside refuse receptacle (146) into (Col. 5 Li. 10) a collection container (42).

- 1.3. With respect to claim 2-3, 6, 15, 18, 20-21, and 23, UPDIKE additionally discloses an elongated tubular housing member (62) fixedly mounted to the vehicle (10), a sliding member (62) received therein, to which the lifter (74) is secured, a hydraulic cylinder (64) interposed therebetween, the lifter support (56) comprising a pair of spaced apart horizontally oriented beams (e.g., sidewalls) having an inboard (58) end pivotally secured to the carrier (60) and outboard (70) end secured to the lifter (74), a hydraulic cylinder (66) interposed between the lifter support (56) and the carrier (60) for moving between stored and operating positions.

#### **IV. Response to Applicant's Arguments**

Applicant's arguments entered 6/26/06 have been fully considered but are not persuasive.

1. Applicant argues that the claims, as amended, patentably distinguish the claimed invention over the prior art. This argument is not persuasive for the reasons indicated above.

#### **V. Conclusion**


1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access

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to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197

(toll-free).

CG

  
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SUPERVISORY PATENT EXAMINER